

# SENATE BILL REPORT

## SB 6348

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As Reported By Senate Committee On:  
Water, Energy & Telecommunications, February 06, 2008

**Title:** An act relating to the interwatershed transfer of water rights.

**Brief Description:** Protecting rural communities from the harmful impacts of interwatershed water rights transfers.

**Sponsors:** Senator Morton.

**Brief History:**

**Committee Activity:** Water, Energy & Telecommunications: 1/25/08, 2/06/08 [DPS].

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### SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

**Majority Report:** That Substitute Senate Bill No. 6348 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rockefeller, Chair; Murray, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Hatfield, Holmquist, Morton, Oemig, Pridemore and Regala.

**Staff:** Jan Odano (786-7486)

**Background:** Current law states that the right to use water that has been put to beneficial use is and remains an appurtenance of the land or place where the water is used. The water right may be transferred to any other land or place of use as long as the change does not affect other existing water rights. In addition, the point of diversion of water and the purpose of use may be changed if the change does not harm existing water rights. However, before any transfer of a water right can be made, any person with an interest in the transfer must file a written application with the Department of Ecology (Ecology). If it appears that the transfer of the water right, change of point of diversion, or purpose of use can be made without harming existing rights, Ecology must grant the transfer or change.

There is concern that increasing demand and value of water and a trend for selling water away from its watershed of origin will decrease the value of property and harm the economic and social welfare in rural communities.

**Summary of Bill (Recommended Substitute):** Ecology is required to work with Legislators, stakeholders, and local governments of the water resource inventory areas within the Columbia drainage area and tribal interests to assess existing and potential new water in order to protect the economic and social welfare of rural communities. By September 1,

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

2008, Ecology must submit a report with legislative and policy recommendations to the appropriate legislative committees.

**EFFECT OF CHANGES MADE BY WATER, ENERGY & TELECOMMUNICATIONS COMMITTEE (Recommended Substitute):** The limitations on the transfer of water rights from the Columbia drainage area is removed. Ecology must also include local governments of the water resource inventory areas within the Columbia drainage area and tribal interests to assess existing and potential new water sources.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill addresses fundamental rights of storage and certainty of water. Selling of water rights devalues the land base and puts the assessment burden on the remaining citizens. In addition, the county loses basic industry and agriculture, which supports the area. There is a huge need for counties to have their own water right for future growth. Under GMA the counties are required to protect their natural resources, but this is difficult to do when there is no requirement for notification of water transfers. This is an excellent tool to look at the issues of water rights transfers. We want to be able to maintain the current character of our counties, and the only way to do that is to have water available.

OTHER: These are very important issues. The potential limitation on water as a property right, to manage that right, is a major concern. The bill does not address ground water, and parts of the bill address the Columbia River basin and not other areas. The Legislature should direct Ecology to do a programmatic SEPA review of the water rights transfers to address this issue. There is no specific project review to assess the impacts on people's rights. This bill could create unintended consequences for trust water rights that benefit land owners and instream flows.

**Persons Testifying:** PRO: Senator Morton, prime sponsor; Bud Hover, Okanogan County; Mary Lou Peterson, Okanogan County Commissioner; Merrill Ott, Stevens County Commissioner.

OTHER: Jack Field, Washington Cattlemen's Association; Evan Sheffels, Department of Ecology; Mo McBroom, WA Environmental Council; Perry Huston, Okanogan County.